

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA)	JUDGE DONALD C. NUGENT
)	
Plaintiff,)	CASE NO. 5:14 CR 195
)	
)	
vs.)	
)	<u>MEMORANDUM OPINION</u>
SHELDON W. HILL,)	<u>AND ORDER</u>
)	
Defendant.)	

This matter is before the Court on Mr. Hill’s Motion to Alter, Amend, or Vacate §2255 Judgment, Pursuant to Fed. R. Civ. P. 59(e). (ECF #44). Mr. Hill has argued that the Court’s prior order denying his §2255 Motion to Vacate is manifestly unjust because it did not consider the Supreme Court’s decision in *Mathis v. United States*, 136 S. Ct. 2243 (2016). *Mathis*, however, does not apply to this case because the Ohio elements of burglary do not need to match the federal definition in order for Mr. Hill’s two prior burglary convictions to count as “crimes of violence” under the Sentencing Guidelines. Mr. Hill’s convictions were not considered under the categorical approach discussed in *Mathis*, rather, they counted as crimes of violence under the residual clause of the guidelines, which has been upheld in the case of *Beckles v. United States*, — U.S. — (March 6, 2017). As the Court pointed out in its prior order, *Beckles* held that *Johnson*

does not apply to invalidate sentences enhanced under the residual clause of the Guidelines. Neither *Johnson* nor *Mathis* applies to his case, and his claim for ineffective assistance of appellate counsel fails for lack of any prejudice from the alleged error. Therefore, there was no error or other manifest injustice in the Court's prior order and that decision stands. Mr. Hill's Motion for relief under Fed. R. Civ. P. 59(e) is DENIED.

This Court hereby certifies that, pursuant to 28 U.S.C. §1915(a)(3), an appeal from this Order could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. See 28 U.S.C. § 2253 and Fed. R. App. P. 22(b).

IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: September 11, 2017